

Applicants : David Baltimore et al.
Serial No. : 10/037,341
Filed : January 4, 2002
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Supplemental Information Disclosure Statement

In accordance with their duty of disclosure under 37 C.F.R. §1.56, Applicants direct the Examiner's attention to the following disclosures, which are also listed on the attached substitute Form PTO-1449 (**Exhibit A**).

Applicants note that items listed herein are part of a concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly & Co.* involving U.S. Patent No. 6,410,516, which issued from a parent of the subject application.

Applicants further note that items 1-7 were previously submitted to the U.S. Patent and Trademark Office on November 6, 2009 in connection the copending merged reexamination proceeding of U.S. Patent No. 6,410,516, for which the subject application relies on for an earlier effective priority date under 35 U.S.C. §120. In accordance with 37 C.F.R. §1.98(d), copies of items 1-7 are not enclosed herewith but are readily available to the Examiner from the file history of U.S. Patent No. 6,410,516 and its merged proceeding of *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

The Examiner is respectfully requested to make the items of record in the subject application by initialing and dating the attached substitute Form PTO-1449, and returning a copy of the initialed and dated form to Applicants' undersigned attorneys.

1. ARIAD's Principal Brief For Plaintiffs-Appellees On Rehearing En Banc, filed October 5, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;

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2. Brief of *Amicus Curiae* Law Professor Christopher M. Holman In Support Of Neither Party, filed October 13, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
3. Brief For *Amicus Curiae* Roberta J. Morris, ESQ. Ph.D., In Support Of Neither Party, Urging Attention To The Grammatical Structure And Words of 35 USC § 112 ¶ 1, filed October 13, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
4. Brief Of *Amicus Curiae* Novozymes A/S On *En Banc* Rehearing In Support Of Neither Party, filed October 13, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
5. Brief Of *Amici Curiae* Mark D. Janis And Timothy R. Holbrook In Support Of Neither Party, filed October 14, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
6. Brief Of *Amicus Curiae* New York Intellectual Property Law Association On *En Banc* Rehearing In Support Of Neither Party, filed October 15, 2009 in in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al.*

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v. Eli Lilly and Company, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248; and

7. Brief Of Amici Curiae The Regents Of The University Of California, Wisconsin Alumni Research Foundation, The University Of Texas System, University Of Rochester, Rensselaer Polytechnic Institute, STC.UNM, The Research Foundation Of State University Of New York, NDSU Research Foundation, And Research Corporation Technologies, Inc. On En Banc Rehearing In Support Of Affirmance Of Judgment, filed October 15, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248.

Item 1 is a copy of a Principal Brief filed by ARIAD Pharmaceuticals, Inc. in connection with the en banc rehearing in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248. Items 2-7 are copies of amici briefs filed in the in connection with the same en banc rehearing.

This Supplemental Information Disclosure Statement is being submitted under 37 C.F.R. §1.97(c), before the mailing of a Final Office Action. Accordingly, Applicants enclose a check in the amount of ONE HUNDRED AND EIGHTY DOLLARS (\$180.00) for filing this Supplemental Information Disclosure Statement.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorneys invite the Examiner to telephone them at

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the number provided below.

No fee, other than the enclosed \$1110.00 fee for a three-month extension of time and the enclosed \$180.00 fee for filing a Supplemental Information Disclosure Statement, is deemed necessary in connection with filing this Amendment. However, if any fee is required, authorization is hereby given to charge the additional amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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11/6/09
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EXHIBIT A

of Supplemental Information Disclosure Statement

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Group Art Unit: 1636

Examiner: C. Hibbert